

APPENDIX F

TVA RESPONSES TO AGENCY/PUBLIC COMMENTS

Full text of comments can be reviewed in Chapter 9, Agency/Public Comments.

1. General comments of W.G. Minser emailed to TVA on September 16:

The request should be denied because it would reduce the natural beauty of TVA shorelines. Mr. Minser also mentioned another proposed TVA land action on Fort Loudoun Reservoir. He requested that TVA make a clear policy on sale of its public lands.

TVA Response: TVA has generally been able to minimize the impacts of these actions by reviewing individual requests on a case-by-case basis. In the case of the Sunset Bay proposal, the deed modification affects privately owned land, and TVA has added greenbelt and shoreline management zone restrictions to reduce the impacts of the proposal on natural beauty. Additionally, TVA will receive fair market value for deed modification, and as indicated in the EA, only 14 acres of flowage easement land are involved and the development would go ahead anyway.

2. General comments of Michael Butler, Tennessee Conservation League, to TVA by email on September 19.

The TCL stated that this is one of several requests for modifications of flowage easements that they have seen and stated that these types of actions should instead first be addressed through a more comprehensive review.

TVA Response: TVA has determined that a more comprehensive review is not necessary because of the small number of these requests that have been sporadically received and the minimal acreage that has been affected over the last few years. Further, each request for modification of flowage easements is subject to an environmental review in accordance with NEPA. In the instant case, this EA assesses the impact of the modification of flowage easement over 14 acres.

3. General comments of Lee A. Barclay, U.S. Fish and Wildlife Service, to TVA by commercial mail dated September 20.

FWS indicated it could support Alternative 2 or 3 as long as its recommendations concerning the Indiana bat and gray bat contained in its May 30, 2002 letter to Amy Henry [BHE Environmental] were incorporated into the project plan. Furthermore, in its May 30 response to BHE's habitat assessment, FWS concurred that the proposed actions would not likely adversely affect the Indiana bat or gray bat as long as implementation measures to restrict time of the year or individual tree removal are incorporated.

TVA Response: These mitigation measures are included as commitment(s) in the EA.

4. General comments of Danielle Droitsch, Tennessee Clean Water Network, to TVA by email (and commercial mail) on September 24.

The TCWN indicated that they were opposed to the deed modifications because these would lead to greater water quality and visual impacts. They also requested that alternatives to riprap and culverting be evaluated for the east entrance road. TCWN also provided a number of suggestions to ensure that stormwater is controlled. More specifically, TCWN comments and

TVA responses are presented below.

a. TCWN Comment: On page 8, purpose and need for action need appear to be “to facilitate the development.” It is unclear what the need for this action is and why TVA views this development as necessary.

TVA Response: While TVA’s purpose and need is to respond to land use and permit requests, this is indeed the applicant’s purpose and need. The socioeconomic benefits of this development project would be positive. In this regard, facilitating this project will contribute to the overall economic health and welfare of the area and region.

b. TCWN Comment: Our major comments relate to the proposed deed modification. We are generally opposed to any deed modifications proposed by the permit applicant. The Shoreline Management Initiative (SMI) was developed by TVA with considerable attention made to balance environmental, social, and economic interests. The purpose of the SMI was to evaluate the future use of shoreline across the TVA region. While we appreciate the developers attempt to reduce the number of lots from 38 to 30 on TVA flowage easement land, it is still a net loss of protection of these areas and therefore in direct conflict with the intent of the SMI. As a result, we believe that TN Emmons should not be granted the deed modification.

TVA Response: As indicated in the EA, this shoreline is open for private water-use facility permitting, subject to site specific review, and is addressed as a part of the 38 percent of TVA shoreline Valley-wide in the SMI FEIS (TVA, 1998). TVA consideration of this request does not conflict with earlier decisions as they relate to SMI.

c. TCWN Comment: There are two major reasons to prohibit a deed modification:

- the impacts to water quality by allowing the development of the 15 acres would be much higher than if it were not permitted
- the visual impacts are much higher

TVA Response: TVA’s review concludes that these impacts would be insignificant. TVA has included a number of commitments that will lead to more rigorous implementation of erosion and sediment control measures and to reduce visual impacts. As indicated in the EA, commitments to reduce visual impacts include vegetation plantings to buffer the deed modification areas and community facilities. Cumulative affects on water quality are addressed in the Norris Reservoir Land Management Plan (TVA, 2001) and, from a Valley-wide perspective, in the SMI, FEIS (TVA, 1998).

d. TCWN Comment: We would like to see an alternative to the fill below the 1044-foot msl for riprap and culvert [culvert] for the east entrance road. There are alternatives to riprap and culverting that are more environmentally protective and certainly more attractive.

TVA Response: Given the small size of the stream crossed by the east entrance road, TVA does not feel that alternatives to riprap and culverting, such as a bridge, would offer environmental advantages.

d. TCWN Comment: Sunset Bay has already acquired a Stormwater permit, Tracking No. TNR130227, on June 7, 2002. This permit requires that Sunset Bay must develop a site-specific erosion and sediment control plan also known as a stormwater pollution prevention plan

(SWPPP). We were unable to locate a SWPPP as part of the draft EA. If we were in error, please let us know where we can find it in the draft EA. Otherwise, we would like to request a copy of this plan and suggest that TVA incorporate it into their review.

TVA Response: TCWN was forwarded a copy of TN Emmons' Stormwater Pollution Prevention Plan (SWPPP) by Environmental Systems Corporation. TVA has reviewed this plan, deemed it adequate, and incorporated it by reference in the EA.

e. TCWN Comment: On page 72, it mentions that TN Emmons is committed to use appropriate BMPs to prevent erosion and sedimentation during construction. We suggest that the company be required to undergo training through the state's new construction stormwater certification program and be required to submit regular reports to TVA on the status of construction.

TVA Response: The approved SWPPP for the project requires monitoring, regular reporting, and revisions to the plan if the current planned actions are found to be inadequate. The plan also requires that the erosion control subcontractor complete the State of Tennessee training.

e. TCWN Comment: Page 72-73 provides an overview of the potential impacts to water quality through implementation of Alternative 2 or 3. We believe that this draft EA severely understates the potential impacts that this development, particularly during construction, will have on water quality.

There is no guarantee that BMPs will be implemented during construction. Indeed, there is significant evidence that suggests that across Tennessee construction sites are chronically not meeting their general stormwater permits. We suggest TVA build in requirements that ensure compliance with the state stormwater permit. The following statement is far too reaching to ensure protection of water quality: "Because of the anticipated effective implementation of these measures, quality of water in this reach of Norris Reservoir would not be affected directly, indirectly, or cumulatively."

TVA Response: As stated above, TVA will rely on its commitment tracking and monitoring of the project as well as the state's implementation of requirements associated with its project authorizations. Based on further evaluation and environmental protection commitments, Section 4.7.1 of the EA has been revised to conclude that water quality impacts in this reach of the reservoir from the proposed action are anticipated to be insignificant.

f. TCWN Comment:

- We suggest that a 40 foot wide conservation buffers would not be sufficient to capture pollutants.
- We suggest that the cumulative impact on water quality and other environmental factors be considered.

TVA Response: The 40-foot wide buffers are found around ephemeral drains in upland areas. They are not intended as the only mechanism to capture pollutants, but would contribute some capture capacity. The undeveloped strip along the reservoir shoreline averages 230 feet wide between elevations 1020-foot and 1044-foot mean sea level. Even on the areas where fill could be placed down to elevation 1036-foot msl, this strip is typically about 150 feet wide.

Because of the nature of the development and the actions taken to minimize impacts, TVA feels that the potential for sediment entering the reservoir would be minimal. The EA has been changed to reflect this insignificant water quality affect.

5. General comments of Herbert L. Harper, Tennessee Historical Commission, to TVA by commercial mail dated September 24.

THC suggested that there may be historic properties as yet unknown located within the boundaries of Sunset Bay Residential Development that exist beyond the TVA-designated APE.

TVA Response: While it is indeed possible that cultural resources exist on private lands in the area, these resources would not be affected by the federal actions related to Sunset Bay. As to the non-federal actions on private land, TVA will encourage the developer to undertake the development in a manner that would minimize the impact to historic properties.

Under Section 106 of the NHPA, TVA coordinated its review of the potential impact of the proposed action on historic properties, including review of a Phase I archaeological survey. Nine Indian tribes with possible affiliation with the project area were notified of the proposed action by letter dated July 24, 2002. By letter to the SHPO, dated July 15, 2002, TVA submitted a finding that no historic properties would be affected within the TVA-designated APE. The SHPO responded, by letter of August 21, 2002 stating: "We affirm our finding, stated in previous correspondence, that we concur with TVA's determination that there are no historic properties which will be affected in the portions of the project previously surveyed. We also repeat our concurrence that archaeological survey work in the inundated areas of the project may be postponed until the winter draw down."

6. General comments of Helen S. Hennon, Environmental Systems Corporation, to TVA by commercial mail dated September 24.

ESC identified lot numbers erroneously included the DEA where future purchasers would not have the right to apply to TVA for private water-use facilities. They also mentioned that commitment #6 was confusing as written.

TVA Response: Changes to these lot numbers and the commitment language have been incorporated into the revised EA.